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SUBJECT: COSTA RICA SATISFIED WITH ICJ'S SAN JUAN RIVER
RULING

REF: WHA ASDAR 7/13/09

¶1. (SBU) Summary: Per Ref, on July 13 the International Court of Justice (ICJ) ruled on Costa Rica and Nicaragua's long-running dispute over navigation rights on the San Juan River, which serves as part of the northern border between the two countries. The ICJ's balanced ruling essentially gave Costa Rica commercial/economic rights and Nicaragua control over security issues on the river. Costa Rican officials expressed both public and private satisfaction with the ruling, which they viewed as favoring Costa Rica on all "the important points." End Summary.

¶2. (SBU) Among other points, the ICJ affirmed Costa Rican commercial, transportation and tourist access to the San Juan, and rejected Nicaragua's ability to require visas or tourist cards from Costa Rican river-goers. In addition, the ICJ upheld Costa Rica's right to use official vessels in limited capacities, presumed to include medical and humanitarian purposes. The ICJ, however, ruled that Costa Rica could not use the river to transport security officials, even if unarmed; that Nicaragua has the right to regulate river traffic; that Costa Rican vessels must stop at Nicaraguan posts at the beginning and end of their voyage; and that Nicaragua may require that masted-vessels sail under a Nicaraguan flag. The GOCR has three police outposts at various points along the San Juan, which had exchanged officers and conducted communication via river travel prior to the dispute.

¶3. (SBU) The GOCR roundly claimed the ruling as a victory, publicly pointing out that the ICJ had ruled in their favor on seven out of nine issues that the GOCR had presented. Arnoldo Brenes, the MFA's point man on the San Juan dispute over the past nine years, admitted to us that he was initially disappointed that Costa Rica's ability to move police officers along the river was not upheld. However, Brenes said that if the police navigation issue had not gone in favor of Nicaragua, the ICJ would have run the risk of Nicaragua rejecting the ruling altogether. Brenes believed that the GON had heightened the expectations of the Nicaraguan people as to what to expect out of the ruling, to the point that if they "would not have won anything," the GON would have had problems. Brenes added that the police navigation issue, in the end, was not actually critical to Costa Rica as they had developed alternate methods of reinforcement and communication between their outposts over the past ten years. In this respect, Brenes said that they were "very pleased" with the ruling, as the GOCR's real focus was on securing commercial rights to the river, which were granted by the ICJ.

¶4. (SBU) The next step is for the two countries to begin a dialogue on how to actually implement the ruling. Brenes said they hoped to begin to discuss a number of the issues

the ICJ resolved over the coming weeks. These include the end of Nicaraguan embarkation fees, the potential establishment of Nicaraguan time-tables for river navigation, and the extent and manner in which Nicaraguan patrols may board Costa Rican vessels on the river. While Brenes said that negotiations with the Nicaraguans were always difficult, he hoped the implementation of the ruling would be accomplished in the short-term.

COMMENT

15. (SBU) The (hopefully) final settlement of the San Juan River issue has been a long time in the making. This particular dispute goes back at least until 1998, when Nicaraguan authorities began restricting Costa Rican movements along the river. By giving each side the issue that was most important to it, the ICJ's decision made it possible that both countries would actually abide by their ruling. Additionally it opens up possibilities of increased cooperation on law enforcement issues in the area. In fact, Costa Rican and Nicaraguan counterparts have already begun informally discuss, at very low levels, the possibility of using Costa Rican "shipriders" on board Nicaraguan patrol boats when stopping Costa Rican vessels.

16. (SBU) Though Costa Rica and Nicaragua might finally be able to put the San Juan issue behind them, there remain a number of differences between the two countries on issues as diverse as immigration, trade, security and regional politics (highlighted by Nicaragua's recent attempt at blocking Costa Rican presidency of the Sistema por Integracion y Cooperacion de Centro America - SICA). Given the vast differences between the two countries and their governments, there are few signs that relations between the two neighbors will improve any time soon.

BRENNAN